

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
November 1, 2005**

Place: Auditorium
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Forman, Conze, Kenny, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Beler

At 8:00 P.M., Chairman Damanti noted that due to the size of the crowd and the expected number of speakers this evening, the public hearing on this matter may need to be continued to another night. Mr. Damanti then read the first agenda item:

Application for Approval of Affordable Housing, Coastal Site Plan Review #150-A, Land Filling & Regrading Application #147, Christopher and Margaret Stefanoni, 77 Nearwater Lane. Proposing to raze the existing residence and to construct 20 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in two new buildings with associated parking and regrading, and to perform related site development activities within a regulated area. The subject property is located on the west side of Nearwater Lane approximately 300 feet south of the intersection of Nearwater Lane and Nickerson Lane, and is shown on Assessor's Map #52 as Lot #5, R-1 Zone.

Margaret Stefanoni introduced her development team. She explained that the proposed development, Nearwater Manor, would be a 20 unit elderly housing development restricted to persons at least 62 years of age in which 30 percent would be affordable units. This project would be located at 77 Nearwater Lane. Ms. Stefanoni explained that seniors have expressed a need for housing in Town and there are wait lists at the existing complexes in Darien which are long. She said that according to the D.E.C.D. Darien has 1.81% affordable housing. She explained that those in opposition to the project will not mention that the housing proposed is for seniors. She believed that this road is suited for senior living, as it has sidewalks leading to Boston Post Road and the seniors can stroll to Weed Beach. Ms. Stefanoni explained that Mr. Ginsberg and Mr. Keating mentioned fitting the buildings to the site. They have used a main house and barn "look."

Ms. Stefanoni explained that when the State of Connecticut Legislature enacted Section 8-30(g) of the Connecticut General Statutes, it allowed building in a manner that does not meet local Zoning Regulations. She then referred to Sheet 2 of 5 which contains a Zoning Chart for this project. She noted that the front setback of the large building is at 30 feet not the required 40 feet. The project meets minimum lot width, lot frontage and lot depth requirements. She said there is a 19.7 foot side yard to the proposed port cochere. Ms. Stefanoni also noted a typographical error on the plans that notes the required building height limitations in Darien are two and one-half stories and 30 feet. Although the plans state that the proposal is two stories, it is in fact three and one-half stories. The plan also states that the proposed buildings are 35.7 feet high when in fact they are proposed to be 41.5 feet. The highest eave was used in the calculation of building height.

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Ms. Stefanoni explained that they have submitted an affordability plan that complies with Section 8-30g of the Connecticut General Statutes. The affordable units will be restricted to 40 years and the affordable plan which they have submitted must be complied with.

Architect Michael Stein, a partner in Stein & Troost Architects in Norwalk then described the buildings. He noted that there are 20 units total – 14 in the larger building and six in the smaller building. Over all, there will be 14 two-bedroom units which range in size from 1,200 square feet to 1,400 square feet, and 6 one-bedroom units which range in size from 820 to 1,000 +/- square feet. The total square footage of the two buildings would be 29,770 +/- square feet, and the building coverage would be 12,800 square feet. For the design concept, Mr. Stein explained that they are trying to capture the spirit of a New England manor house and its accessory structure by using a white clapboard structure with charcoal gray roof. The barn would be a red gambrel form with vertical clap siding and the same charcoal gray roofing. All of the units would be served by an elevator and the one-bedroom apartments would have one full bathroom. All doorways and bathrooms would be larger than standard, and all units would have full kitchens.

Landscape Architect Stuart Saxe said that he has submitted a plan which includes a point illumination analysis. The lights have a strong cut-off and are 16 feet high. There are also a couple of 42 inch high bollards on the property which will be blocked by shrubbery. A tree will also help block some of the lighting. They have tried to limit the light trespass. Mr. Saxe explained that some lights near the building are on a motion sensor and some parking lot lighting may be limited in their hours of use. He said he disagrees with the comments submitted by DEP Office of Long Island Sound Programs. He noted that although these two proposed buildings are bigger than the surroundings, they are farther away from the water than other residences, and therefore they will be less imposing. Mr. Damanti then asked how many elevators are in each of the buildings. Architect Stein then responded that both buildings will have one elevator, and that there would be a total of two elevators for the project.

Mr. David Spear, a principal engineer with DLS Consulting Traffic Engineering Services in Windsor CT, then discussed the submitted Traffic Study. He said that the scope of his study included seven primary tasks. Two different time frames were analyzed relative to traffic counts. The higher volumes were found in August 2004, which had 2,270 vehicles per day. The a.m. peak hour was 188 vehicles and the p.m. peak hour was 239 vehicles. Of the 239 vehicles 116 were northbound and 123 were southbound. Thus, the December counts were lower than the August counts. Mr. Spear said that he had also reviewed the accident history regarding the general premises. That accident history was reviewed during a three year time period, and in that time period only one accident was recorded. Thus, he believed there is no trend in this data. Mr. Spear said that he also recorded the speeds of vehicles on Nearwater Lane. The 85th percentile speed was 37 miles per hour in both directions. He also analyzed sight distances. He explained that sight distance measured in excess of 600 feet in each direction and only 445 feet is needed. Thus, he concluded that the sight lines are good. The posted speed limit in the area is 25 miles an hour. Mr. Spear claimed that there are no other large developments in this area, but there are eight small residential projects now ongoing south of the premises. These are house renovations. In general terms, traffic on Nearwater Lane flows northbound in the morning and southbound in the afternoon.

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Relative to site generated traffic, Mr. Spear said that the Institute of Traffic Engineers (ITE) does not have uses that exactly match this proposed use. Therefore other similar uses were analyzed. The p.m. rate for age restricted developments were used. He noted that many of the likely residents of this development would be retired. He concluded that relative to trip generation, there would be 5 trips in the a.m. peak hour and 8 trips in the p.m. peak hour. The level of service calculates the quality of traffic flow. Mr. Spear said that in this case, the level of service with both the proposed a.m. background traffic is Level of Service A for the combined condition. Mr. Spear then said the last issue he reviewed was the design vehicles. He noted that SU-30 vehicles (a UPS truck) would make the turn into and turn around on site. He added that the Fire Marshal was consulted relative to this development and wanted a 45 foot turning radius and the ability to turn around on site.

Mr. Spear then summarized his presentation by noting that there is no accident history on site; that there are good sight lines; that an SU-30 vehicle can be accommodated and can turn around on site; and with this project a Level of Service A will be in existence for the combined condition.

Commission member Kenny then asked whether Mr. Spear could give a clarification on the age restrictions relative to this proposed elderly development. Mr. Spear said that it was his understanding that at least one of the residents must be at least 62 years or older. Mr. Chris Stefanoni also confirmed that at least one resident in each unit must be age 62 or over but not everyone living there needs to be 62 or over. Mr. Kenny then asked what accommodations have been made for school age children living on the premises. Mr. Spear said that a similar facility study was done for a 55 plus age restricted facility. He said that it is not typical to have lots of children in such a development. He has compared the proposed numbers to the ITE database and that there is no expectation of having children live here. He believed that there is more than sufficient traffic capacity here and that the 2003 Seventh Edition of the ITE manual was used.

Mr. Spain then asked Mr. Spear when he was engaged by the applicant for this project. Mr. Spear responded that he first studied traffic in the area in December of 2003 and then followed up with further traffic counts in August of 2004. He said that the difference between the December 2003 traffic count and the August 2004 traffic counts were 20% plus or minus. Mr. Spain then asked whether there was any basis to compare July and August traffic. Mr. Spear responded that there are no exact June or July numbers and that a sunny day in August was used for the traffic counts. Mr. Spain asked whether other dates were studied. Mr. Spear responded that he would have to check his files. Mr. Spain asked if Mr. Spear has any data that was collected that was not included in the submitted Traffic Report. Mr. Spain also asked why Mr. Spear may have studied other elderly housing developments in previous years. Mr. Spear responded that he was engaged by other applicants in other communities at the time.

Mr. Spain then asked Mr. Spear whether he has reviewed the Darien Subdivision Regulations relative to this proposal. Mr. Spear said the subdivision regulations would not be applicable to this proposal. Mr. Spain asked whether he has studied the required distances from adjacent streets relative to this proposed driveway. Mr. Spear confirmed that the proposal is for a driveway and not a new street. Mr. Spain asked whether that driveway, if it were to be considered a street, would comply with the Darien Subdivision Regulations. Mr. Spear said that he would have to get back to the Commission regarding that issue. Mr. Spain then asked whether the turn-arounds on site would be adequate if all the parking spaces were occupied. Mr. Spear responded that vehicles would still be able to turn around on site if all the spaces were occupied and a delivery were to be made. Mr.

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Spain then asked whether any delivery vehicles on site would affect the entrance or exit of emergency vehicles. Mr. Spear said that they do not anticipate having deliveries during an emergency. Mr. Spear then said that the parking provided meets the Darien Zoning Regulations which require 30 parking spaces, and 30 parking spaces are being provided. Mr. Kenny then asked whether traffic counts were compared to the counts taken at the shack at Weed Beach. Mr. Spear was not aware that the Weed Beach shack kept records.

Professional Engineer and Land Surveyor Barry Hammons of Hammons LLC in Fairfield Connecticut was present to discuss sanitary sewer and storm water design of the project. He noted that the project includes 30 parking spaces with a turn-around area which includes two handicap parking spaces. The buildings will be tying into a 24 inch sewer main and the units will have individual sewer laterals. All power and utilities will be underground (cable and phone) and the project will be served by public water supply. The proposed dumpster will be placed on a concrete pad enclosed by a fence and will be maintained by the proposed condominium association. A utility easement now exists along the south property line and will be honored. The retaining wall keeps away from that utility easement area. They will be filling approximately five feet to Elevation 17.

Relative to the storm system, they are concerned about both water quantity and water quality. The proposed parking lot will be asphalt and the proposed pipe will not flow unless there is a three inch storm. He reviewed a 50 year storm design for this project. Relative to water quality issues, he noted that roof water is hotter in the summer and pollutants come with both the driveway and proposed parking area. He therefore broke the driveway into two "pieces." Any proposed grip chamber needs to be maintained as to rechargers.

Mr. Hammons explained that a fax from the State of Connecticut Office of Long Island Sound Programs (OLISP) was received earlier today. He said that he believes that some of the concerns are valid. He will incorporate the proposed changes to the plans in response to that fax. Grit and oil separators will be used rather than drywells. The proposed retaining wall has not yet been designed but will be designed to withstand hydraulic loads and pressure. It must be designed by a professional engineer. They will study the groundwater to insure that the drywells will work as designed. All of the drainage structures include a safety factor and did not account for the percolation of water into the ground. The design of a three year storm accounts for up to 97% of all rain storms during the year and there will be no out flow from the drainage structure during such storms. Mr. Hammons confirmed that John Gaucher from DEP feels that the application is incomplete with respect to storm water management. Mr. Hammons said that there is no room for vegetative buffers and they have accounted for a hundred year storm for a total capacity of seven inches of rain within a 24 hour period. He said that they have gone to standard engineering lengths to mitigate the concerns and that this project has been properly engineered.

Mr. Spain asked whether they have measured the groundwater level. Mr. Hammons responded that they have looked for signs in the ground and none are apparent. Tests will be done prior to construction to verify the depth of the ground water. Mr. Kenny asked whether there is a maintenance plan for the ground water and drainage system. Mr. Hammons responded that Mrs. Stefanoni would discuss that. Mr. Kenny then asked what the distance is from the proposed dumpster location to the neighboring residence to the north. Mr. Hammons responded it is over 100 feet from the dumpster to their residence. Mr. Kenny asked how often the dumpster will be emptied. Mr. Hammons responded that they may also have a small dumpster in that enclosure area

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for recycling and he is not sure how often it could be emptied but it will be fenced and there will be regular pick-up and proper cleaning. It will be used for household refuse only. Mr. Kenny then asked what is the closest fire hydrant nearby. Mr. Hammons said that there is a fire hydrant approximately 20 feet to the north of the property.

Mrs. Stefanoni said that they are providing a fire hydrant on-site near the turnaround based upon the recommendation of the Fire Marshal. They will provide details regarding the integrated pest management plan and the storm water management maintenance plan. This may be modeled on Bishop's Gate with annual reporting to the Commission. She then mentioned that this property has an access easement to Holly Pond. It is not owned by them but Mr. Gaucher had concern about the amount of additional foot traffic to Holly Pond. She said that the walkway over the tidal marsh has recently been allowed by the Appellate Court. She mentioned that her existing house is within the view corridor but the two new buildings would be behind the Duncan house and that the only part of the project you would see from the water would be the port cochere. Mrs. Stefanoni confirmed that they will discuss the other comments with Mr. Gaucher and get back to the Commission. Mr. Kenny then asked whether Mrs. Stefanoni has reviewed the State of Connecticut Plan of Conservation and Development relative to this proposal. Mrs. Stefanoni said that she would review that plan.

At approximately 9:40 p.m. Mr. Damanti then opened up the floor to the general public. Mr. Bran Raskovic of 61 Nearwater Lane then asked the Commission to limit the sessions of the public hearing to a few hours and that the general public be given adequate time to review and comment on the proposal. He believes that it would be inappropriate to have public hearings go as late as 11:00 p.m. Mr. Joe Warren of 114 Hecker Avenue then said that he is speaking as an individual tonight and not representing anyone. He believed that the proposal would significantly change the character of Darien forever and destroy it. He said that there is a need to preserve local Zoning Regulations and that traffic is not the significant issue. He believed that the Fire Commission should review the proposal and determine whether support vehicles can also access the property during an emergency.

Mr. Doug Bora of 38 Nearwater Lane says that there needs to be a well-planned public policy regarding affordable housing. He then submitted a petition with over 600 signatures. His concern was a dense, age restricted development within a hurricane zone. He noted that FEMA has mapped hurricane zones in 2004. He believed that this proposal is a misuse of the state law and that the development is overreaching. He recommended that the Commission reject the application. Mr. Sandy McDonald of 34 Baywater Drive then said that there are 200 +/- houses south of this property and only one way to evacuate the whole area which is up Nearwater Lane. Tidal floods have been experienced in the area. Tropical storms and surge tides happen and should be considered. This high intensity use would add 10% of the dwellings to a hazard area that would need to be evacuated and they would need to evacuate boats, vehicles and people right past the site. A better location for such a development should be found. Mrs. Judge of 97 Nearwater Lane said that she owns the driveway to the south of the site, and the driveway now floods occasionally in rain and high tide, and collects runoff from the subject property. She said that others in the area also have a flooding problem and the 20 additional units will impact drainage in the area. Ms. Margaret Conrad of 12 Great Hill Road said that there is traffic year-round at the Elementary School which is at the corner of Nearwater Lane and Boston Post Road. She said that school traffic was not addressed as part of this proposal.

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Mr. Lee Fingar of 6 Wakeman Road said that he is in favor of affordable senior housing. He said that there is a difference between affordable housing and elderly housing and he specifically referred to a *Christian Activities Council v. Town of Glastonbury* case. He believed that there would be harm to the public interest in Darien if the project were approved in its present format. He believed that it is much too dense a project and that 6 dwelling units per acre may be more appropriate. Mr. Bill Coleman of 134 Nearwater Lane said that there is only one sidewalk on Nearwater Lane and it is in disrepair. The potential pedestrian traffic would be substantial and Mr. Coleman asked whether the sight lines that the Traffic Engineer referred to earlier this evening were developed for the elderly or for the population in general.

Susan Morrison of 8 Juniper Road said that the parking for this project has been placed very close to the north property line and that the density is not in keeping with the Town. She said that the project is three and one-half stories and 20 units on slightly more than an acre. She then submitted a copy of her comments for the record. Mr. Doug Calby of 75 Nearwater Lane said that he lives directly to the north of this project. He strenuously opposes the project based on safety and that it does not fit the context of the community. The size and scope of the project is outside the context of the neighborhood. His concerns are emergency access; overcrowding; the fact that there is only access to one to two sides of the building; that the "T" turn-around is too small and too close to the buildings; and that the four story structures are unserviceable from a fire safety point of view. He said that there is a woeful lack of parking and that there is a need to keep the fire lanes open. Mr. Calby then referred to critical design issues (such as the dumpster, the HVAC units, and the parking) which have all been located in the perimeter to the site. The buildings are four stories high and he believed that there would still be economic viability in the project with less units in the proposal.

Mr. Jay Hardison of 11 Nearwater Lane said that the traffic study should be done during the school session and that this is too much development on too small a piece of land. Attorney Wilder Gleason then spoke on behalf of the Darien Land Trust which owns property to the south of this site. They now receive storm water runoff from the property and he asked for a continuation of the public hearing to study this proposal further.

Mr. Wilder Baker of 99 Nearwater Lane also owns property to the south of the site. This property is served by a narrow driveway and Nearwater Lane is a dead end south of the Stefanoni site. He wishes to protect and safeguard the character of the neighborhood in Town and believed that if this project is approved, it would lead to other similar applications. Mr. Bob Noonan of 135 Nearwater Lane asked about the Planning & Zoning Commission process. Chairman Damanti outlined the process for conducting public hearings and making a decision on this matter. He said that the Commission must conclude the public hearing within 35 days unless an extension is granted by the applicant. After the public hearing is closed, the Commission has 65 days to make a decision. It must either approve the application, modify and approve the application or deny it. If the Commission does not act on the application, it is considered an approval. Mr. Damanti then asked Mr. Stefanoni if he would be willing to grant such an extension of the public hearing. Mr. Stefanoni responded that he would be willing to grant an extension of the public hearing until December 31, 2005.

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Gwynne Grimes noted that she is the Chairman of the PZ& H Committee of the RTM. She lives at 55 Allwood Road. She said that the Planning & Zoning Commission should hire all necessary experts to review this application. Mr. Peter VanWinkle of 41 Baywater Drive then submitted photographs of parking on Nearwater Lane due to a special event which occurred at Hindley School. He believed that the proposal was overwhelming and overburdening the land. Attorney Bruce Hill was present on behalf of adjacent neighbors the Duncans, the Calbys and the Judges. He said that he would speak at a continuation of the public hearing later this month if the Commission would be continuing it.

Mr. Damanti asked the applicant how long it would take for them to prepare any revised materials in response to comments received this evening. After brief consideration by the applicants, they said they would like until November 15th to prepare revised materials. Mr. Damanti then instructed Mr. Ginsberg to prepare a letter to the Stefanonis outlining the list of issues presented this evening and have that ready by Friday, November 4th. The Stefanonis should have all materials submitted to the Planning & Zoning Commission office by November 15th to give interested parties ample time to review that revised material. He then asked for a motion to continue the public hearing. Mr. Conze made a motion to continue the public hearing to November 29, 2005 at 8:00 p.m. in the Auditorium of Darien Town Hall. That motion was seconded by Mr. Kenny and unanimously approved.

There being no other business, the meeting was adjourned at 11:00 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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